

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1530-07
Bill No.: Truly Agreed and Finally Passed SS for HCS for HB 738
Subject: Banks & Financial Institutions; Business & Commerce;
Department of Economic Development
Type: Original
Date: May 23, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
General Revenue	\$0 to (\$200,000)	\$0 to (\$200,000)	\$0 to (\$200,000)
Total Estimated Net Effect on <u>All</u> State Funds*	\$0 to (\$200,000)	\$0 to (\$200,000)	\$0 to (\$200,000)

***Does not include revenue losses of \$3.3 million annually which could be realized due to repeal of the franchise tax.**

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 11 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials with the **Department of Economic Development (DED)** originally stated that the portion of the proposal changing the residency requirements for Enterprise Zone credits, which is the similar to fiscal note 1886-01, would have an impact of \$0 to a \$200,000 cost. However, DED has re-evaluated the original response and now projects the impact to be \$0. This change in response from fiscal note 1886-01 is based on additional input from the cycle manufacturer impacted by the NAICS code.

Oversight assumes the expansion of the employees who count toward the residency requirement at the Harley Davidson plant in Kansas City may have a fiscal impact on the state and has used DED's original response.

Officials from the **Department of Insurance (INS)** assume allowing examination fee deductions to be carried-forward would not impact state revenues until FY 2005. INS states the first tax year for which deductions could be carried-forward would be 2003; these taxes would be filed in March, 2004. Any carried-forward deductions would impact revenues in FY 2005, as they would be filed in March, 2005. INS notes that the amount of examination fees in excess of premium tax liability was \$2 million in 1997 and \$1.8 million in 1998. The Department would require programming changes estimated at \$95,000 in FY 2005.

Officials from the **Office of Administration–Division of Budget & Planning** assume there will be an impact to state revenues due to the proposal. The Office defers to the Department of Revenue and the Department of Insurance for an estimate of the amount.

Officials from the **Department of Revenue** assume no administrative impact would result from the passage of this proposal, based on an assumption that the number of tax credits filed would not significantly increase. However, if the Department is incorrect in this assumption, the Department will need one Temporary Tax Season Employee for every 75,000 additional credits, one Tax Processing Tech I for every 30,000 additional errors generated and one Tax Processing Tech I for every 3,000 additional pieces of correspondence received regarding this credit. Any FTE needed will be requested during the normal budget process. The Department also assumes there would be a revenue loss to the state should this legislation pass along with a repeal of the franchise tax.

Oversight notes that by providing that banks will continue to be allowed to claim the amount they would have paid in franchise tax as a credit against their bank tax liability if legislation is enacted which eliminates the franchise tax, the bill creates the potential for a large revenue loss.

ASSUMPTION (continued)

Currently, banks reduce their bank tax liability for any franchise tax paid, and also receive a 50% credit. Thus, repealing the franchise tax alone would eliminate the credit of 50% of the franchise tax received by banks. According to officials with DOR, the amount of franchise tax paid by Missouri banks is \$6,598,000. **Oversight** assumes this proposal would result in a cost to General Revenue if any pending legislation repealing the franchise tax is enacted along with this proposal.

In response to previous similar legislation, officials the **Department of Economic Development–Division of Finance**, the **Office of Prosecution Services**, and the **Office of the Attorney General** assumed the proposal will have little or no fiscal impact on their agencies.

Officials with the **Department of Economic Development–Division of Credit Unions**, the **Office of the Secretary of State–Securities Division**, and the **Office of State Courts Administrator** assume the proposal will have no fiscal impact to their agency.

In response to previous similar legislation, officials from the **City of Saint Louis** indicated the provision exempting financial institutions managing property tax payments from escrow accounts from any installment property tax payment requirements should have no fiscal impact. **Oversight** assumes little or no local fiscal impact, as the exemption would be only from the counties' payment schedules.

<u>FISCAL IMPACT - State Government*</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
GENERAL REVENUE FUND			
<u>Cost–DED</u>			
Business Facility Tax Credits for	<u>\$0 to</u>	<u>\$0 to</u>	<u>\$0 to</u>
Harley	<u>(\$200,000)</u>	<u>(\$200,000)</u>	<u>(\$200,000)</u>
Davidson plant			

***Does not include revenue losses of \$3.3 million annually which could be realized due to repeal of the franchise tax.**

<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

L.R. No. 1530-07

Bill No. Truly Agreed and Finally Passed SS for HCS for HB 738

Page 4 of 11

May 23, 2001

MF:LR:OD (12/00)

FISCAL IMPACT - Small Business

This proposal would have a direct fiscal impact on small insurance agencies, small financial institutions, and small businesses operating as consumer credit or title lenders.

DESCRIPTION

The substitute allows any employee of a new business facility with the North American Industry Classification System Number 336991 to be considered a resident of an enterprise zone, even if the employee ceases to live in an enterprise zone, as long as the following conditions are met:

1. The individual was a resident of an enterprise zone at the time of employment and for three months following commencement of employment with the new NAICS 336991 business facility;
2. The individual remains employed with the new NAICS 336991 business facility, and;
3. The individual continues to reside in Missouri.

An NAICS 336991 business relates to motorcycles, bicycles, and parts.

This bill amends various laws dealing with small consumer credit loans and title loans. In its main provisions, the bill:

- (1) Redefines "consumer credit loans" to mean loans for personal, family, or household uses that are made in amounts of \$500 or more. The loans are also often referred to as "small loans." (This provision effective 1/1/02.);
- (2) Allows consumer credit lenders to renew their licenses by posting a surety bond or an irrevocable letter of credit for \$100,000, in lieu of conducting the annual audit otherwise required by law;
- (3) Removes requirement that title loan borrowers pledge their property to the title lender. The title loan lender will no longer retain the certificate of title during the length of the loan. The bill also removes the provision stating that money borrowed under a title loan agreement is not a debt of the borrower and that the borrower is not personally liable under the agreement;
- (4) Clarifies that all information submitted by a title lender to the Division of Finance is confidential;

(5) Requires title lenders to be licensed by the division. Current law only requires title lenders to be registered;

DESCRIPTION (continued)

- (6) Removes the residency requirement for title lenders, requires lenders to post a \$20,000 surety bond or irrevocable letter of credit for each location, and retains a \$1,000 investigation fee for each location upon renewal of licence;
- (7) Eliminates the requirement that a title loan borrower must pay fees upon renewal of any title loan agreement;
- (8) Requires title loan borrowers to reduce the principal of the loan by 10% of the total principal upon the third renewal or any renewal subsequent to the third renewal. Current law only requires a principal reduction of 10% of the original principal;
- (9) Provides title loan borrowers with the same notice and opportunity to cure defaults that is provided to other borrowers and eliminates the existing requirement whereby title loan borrowers are required to deliver the property described in the loan to the borrower at the end of the first loan period;
- (10) Allows title lenders to charge only those interests and fees allowed to other small loan lenders. Small loan lenders may charge any interest agreed to by the parties, but may only charge fees on the initial loan contract, and those fees cannot exceed 5% of the principal or \$50, whichever is less;
- (11) Requires certain additional disclosures and forms for all title loans, including informational notices to borrowers, the potential consequences of default, and the maximum rates charged by the lender;
- (12) Mandates that title lenders keep records on the loans and notices given to their customers for at least 2 years;
- (13) Requires all title lenders to be examined by the Division of Finance prior to ceasing business;
- (14) Limits title lenders to the same procedures for collection on defaulted loans as is provided for other small lenders;
- (15) Establishes penalties for title lenders who violate the provisions of the bill, including license suspension or revocation, civil penalties of up to \$1,000 per day, or cease and desist orders;

DESCRIPTION (continued)

(16) Makes all lenders in the business of making unsecured loans under \$500, with exceptions for certain types of loans, comply with the same bonding, principal reduction, notice and opportunity to cure, interest and fee limitations, disclosures and forms, record-keeping, examination, default collection, and penalty provisions that are applied to title lenders throughout the bill, except that (a) the principal reduction requirements for lenders making unsecured loans under \$500 do not apply until the fifth renewal, and (b) no surety bond is required of these lenders.

(17) Requires consumer installment lenders to be licensed and to follow the notice, opportunity to cure, and collection procedures established for other lenders.

This bill makes various changes to the state banking law. In its main provisions, the bill:

(1) States that, if the corporate franchise tax is repealed for Missouri corporations other than financial institutions, then (a) financial institutions will be granted a tax credit, in lieu of the existing tax credit, of 1.5% of net income. S corporations can pass this tax credit through to their shareholders; and (b) all taxes and tax credits on S corporations will be passed through to the shareholders, with certain exceptions;

(2) Allows not-for-profit corporations with civil, charitable, or educational purposes to be chartered or branched in Missouri as banks insured by the Federal Deposit Insurance Corporation;

(3) Modifies bank stockholders' meetings laws to allow transaction of business at one annual meeting by unanimous written consent;

(4) Allows state bank and trust companies to (a) be passive investors in business entities owned by other financial institutions; and (b) lend money on real estate and handle real estate closings and escrows;

(5) Allows certain bank and trust companies in communities with sufficiently small populations, as established by rule of the Division of Finance, to keep the additional powers granted to them for 5 years after they exceed the allowable population;

(6) Allows state bank and trust companies to offer any product or service that a national bank can offer, as long as the state bank follows federal law while conducting these practices and provides notice to the Division of Finance;

(7) Expands the capital investment allowances granted to state banks to include holding companies authorized to do business in this state;

DESCRIPTION (continued)

(8) Clarifies that certain investment prohibitions in the bill are limited only to other allowable investments;

(9) Allows bank and trust stockholders to appoint a chief executive officer or a president. Current law only allows presidents to be appointed;

(10) Allows bona fide fees to be collected on residential real estate loans for any actual and necessary services associated with the loan;

(11) Allows late payment charges not to exceed 5% of the payment due or \$50, whichever is less, on small loans overdue for 15 days or more;

(12) Prohibits any regulation regarding the charging of insurance commissions on credit insurance from being more restrictive on financial institutions than regulations are on insurance agents.

(13) Allows a deduction for examination fees that exceed an insurance company's or association's premium tax liability for the same tax year to be carried forward up to five years. These deductions will reduce General Revenue, not the County Foreign Insurance Fund.

(14) Exempts up to \$150,000 of accrued dividend or interest of un-matured life insurance contracts from attachment & execution. Current law exempts only \$5,000.

(15) Clarifies procedures for perfection of a subordinate lien.

(16) Exempts financial institutions from any requirement for installment payment of property taxes for escrow customers.

(17) Provides that state law preempts all future legislation by political subdivisions regarding the regulation of financial institutions.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Economic Development
 Division of Finance
 Division of Credit Unions
Department of Insurance
Department of Insurance
Department of Revenue
Office of Administration
 Division of Budget & Planning
Office of the Secretary of State
Office of the Attorney General
Office of Prosecution Services
Office of State Courts Administrator
City of Saint Louis



Jeanne Jarrett, CPA
Director

May 23, 2001